

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

JEFFREY F. and DONNA LAWRENCE

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Plaintiffs

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v.

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CIVIL ACTION

NO. RDB-02-CV-3224

THE "IMAGINE...!" YACHT, LLC, et al.

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Defendants

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THE "IMAGINE...!" YACHT, LLC, et al.

*

Third-Party Plaintiffs

*

v.

*

SHER & BLACKWELL, LLP

*

Third-Party Defendant

*

* * *

MOTION OF LATITUDE 38° LLC FOR SUMMARY JUDGMENT

Latitude 38° LLC, by its attorneys David W. Skeen and Wright, Constable & Skeen, LLP, pursuant to the Federal Rule of Civil Procedure 56 moves for summary judgment and for reasons therefore states as follows:

1. Plaintiffs, Jeffrey F. and Donna Lawrence, have sued Latitude 38° LLC for hearing loss to plaintiff, Mr. Jeffrey Lawrence, allegedly arising out of the firing of a small cannon on board the Yacht IMAGINE on September 16,

2001 during a law firm outing on the Chesapeake Bay on board Yacht IMAGINE, a boat chartered by his law firm.

2. Plaintiffs' Amended Complaint states four counts, including Negligence – Count I, Breach of Contract – Count II, Violation of Maryland Statute – Count III, and Loss of Consortium – Count IV.

3. As to Count I (Negligence), the undisputed facts will show that defendant, Latitude 38° LLC, was acting at all times herein as a charter broker only in connection with the booking of the trip. Latitude 38° LLC had no ownership in or operational control over the Yacht IMAGINE which was owned and operated by co-defendant Yacht Imagine LLC. It is also undisputed that Latitude 38° LLC had no knowledge of the existence of or firing of the cannon.

4. As to Count II, it is undisputed that the law firm of Sher & Blackwell, third-party defendant was the charterer of Yacht IMAGINE not Latitude 38° LLC. Under the Charter Agreement any contractual obligation under paragraph 5 are those of Sher & Blackwell and not Latitude 38° LLC as alleged in Count II.

5. As to Count III, Latitude 38° LLC did not fire or discharge an explosive device. As a matter of law Maryland Annotated Code Natural Resources Article § 8-725.4(b) is not applicable to Latitude 38° LLC, does not give rise to a private cause of action in any event, and is otherwise not operative in this case.

6. It is further undisputed that Count IV, Loss of Consortium, is a derivative claim from plaintiffs' other claims, and accordingly, fails if Counts I, II and III are dismissed.

7. For the reasons more fully set forth in the attached Memorandum of Law and exhibits attached thereto, there is no dispute of material fact and defendant, Latitude 38° LLC, is entitled to judgment of dismissal as a matter of law.

/s/
David W. Skeen

/s/
Wright, Constable & Skeen, L.L.P.
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(410) 659-1307
Attorneys for Defendant and
Third-Party Plaintiff,
Latitude 38°, LLC

NOTICE OF SERVICE

I HEREBY CERTIFY that on this 27th day February, 2004, copies of defendant, Latitude 38°, LLC's Motion for Summary Judgment, and Memorandum in Support of its Motion for Summary Judgment with Exhibits, were served via e-filing and/or mailed, first class, postage prepaid to Murray I. Resnick, Esq. and Prabir Chakrabarty, Esq., Resnick & Abraham, L.L.C., One East Franklin Street, Baltimore, Maryland 21202, Attorneys for Plaintiffs; Robert H. Bouse, Jr., Esq., 201 N. Charles Street, Suite 2000, Baltimore,

Maryland 21201-4102, Attorney for defendant, The “Imagine...!” Yacht, LLC.,
and Eric N. Stravitz, Esq., 2015 R Street, NW, Suite 300, Washington, D.C.
20009, Attorney for Third-Party Defendant, Sher & Blackwell.

/s/
David W. Skeen #01084

DWS.LATITUDE.LAWRENCE.MEM.SUPP.MSJ.lan